

ASSEMBLY BILL

No. 303

Introduced by Assembly Member Spitzer

February 9, 2007

An act to amend Section 191.5 of the Penal Code, relating to manslaughter.

LEGISLATIVE COUNSEL'S DIGEST

AB 303, as introduced, Spitzer. Manslaughter: vehicular.

Existing law punishes gross vehicular manslaughter while intoxicated by imprisonment in the state prison for a term of 4, 6, or 10 years.

This bill would increase the term of imprisonment to 7 years to life in the state prison.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. This act shall be known and may be cited as The
2 Steve Ambriz Legislation.
3 SEC. 2. Section 191.5 of the Penal Code is amended to read:
4 191.5. (a) Gross vehicular manslaughter while intoxicated is
5 the unlawful killing of a human being without malice aforethought,
6 in the driving of a vehicle, where the driving was in violation of
7 Section 23140, 23152, or 23153 of the Vehicle Code, and the
8 killing was either the proximate result of the commission of an
9 unlawful act, not amounting to a felony, and with gross negligence,
10 or the proximate result of the commission of a lawful act that might
11 produce death, in an unlawful manner, and with gross negligence.

(b) Vehicular manslaughter while intoxicated is the unlawful killing of a human being without malice aforethought, in the driving of a vehicle, where the driving was in violation of Section 23140, 23152, or 23153 of the Vehicle Code, and the killing was either the proximate result of the commission of an unlawful act, not amounting to a felony, but without gross negligence, or the proximate result of the commission of a lawful act that might produce death, in an unlawful manner, but without gross negligence.

(c) (1) Except as provided in subdivision (d), gross vehicular manslaughter while intoxicated in violation of subdivision (a) is punishable by imprisonment in the state prison for ~~4, 6, or 10 years~~ *a term of 7 years to life*.

(2) Vehicular manslaughter while intoxicated in violation of subdivision (b) is punishable by imprisonment in a county jail for not more than one year or by imprisonment in the state prison for 16 months or 2 or 4 years.

(d) A person convicted of violating subdivision (a) who has one or more prior convictions of this section or of paragraph (1) of subdivision (c) of Section 192, subdivision (a) or (b) of Section 192.5 of this code, or of violating Section 23152 punishable under Sections 23540, 23542, 23546, 23548, 23550, or 23552 of, or convicted of Section 23153 of, the Vehicle Code, shall be punished by imprisonment in the state prison for a term of 15 years to life. Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall apply to reduce the term imposed pursuant to this subdivision.

(e) This section shall not be construed as prohibiting or precluding a charge of murder under Section 188 upon facts exhibiting wantonness and a conscious disregard for life to support a finding of implied malice, or upon facts showing malice consistent with the holding of the California Supreme Court in *People v. Watson*, 30 Cal. 3d 290.

(f) This section shall not be construed as making any homicide in the driving of a vehicle or the operation of a vessel punishable which is not a proximate result of the commission of an unlawful act, not amounting to felony, or of the commission of a lawful act which might produce death, in an unlawful manner.

(g) For the penalties in subdivision (d) to apply, the existence of any fact required under subdivision (d) shall be alleged in the

- 1 information or indictment and either admitted by the defendant in
- 2 open court or found to be true by the trier of fact.

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